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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

9 United States of America,
10 Plaintiff,
11 vs.
12 Jesus Enrique Calvo-Martinez,
13 Defendant.
14

CR 23-01842-TUC-RM (MAA)

PLEA AGREEMENT

(Fast Track U.S.S.G. § 5K3.1)

15 The United States of America and the defendant agree to the following disposition
16 of this matter:

17 PLEA

18 The defendant agrees to plead guilty to Count Two of the Indictment charging the
19 defendant with a violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii) and 1324(a)(1)(B)(i),
20 Transportation of Illegal Aliens for Profit, a felony. Any remaining counts will be
21 dismissed at the time of sentencing.

22 ELEMENTS OF THE OFFENSE AND SENTENCING FACTOR

23 1. The defendant knew or was in reckless disregard of the fact that certain aliens
24 had come to, entered, or remained in the United States in violation of law.

25 2. The defendant knowingly transported or moved such aliens within the United
26 States by means of transportation or otherwise in order to help such aliens remain in the
27 United States illegally.
28

3. The defendant committed the offense for the purpose of commercial advantage or private financial gain.

STIPULATIONS, TERMS AND AGREEMENTS

Maximum Penalties

A violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii) and 1324(a)(1)(B)(i) is punishable by a maximum fine of \$250,000.00, or a maximum term of imprisonment of ten (10) years, or both, plus a term of supervised release of three years and a special assessment of \$100; the special assessment is due and payable at the time the defendant enters the plea of guilty, and must be paid by the time of sentencing unless the defendant is indigent. If the defendant is indigent, the special assessment will be collected according to Title 18, United States Code, Chapters 227 and 229.

The defendant will pay upon conviction an additional \$5,000 special assessment pursuant to 18 U.S.C. § 3014(a), unless the Court determines that the defendant is indigent.

Agreements Regarding Sentence

1. Guideline Calculations: Although the parties understand that the Guidelines are only advisory and just one of the factors the Court will consider under 18 U.S.C. § 3553(a) in imposing a sentence, pursuant to Fed. R. Crim. P. 11(c)(1)(C), the parties stipulate and agree that the below guideline calculations are appropriate for the charge for which the defendant is pleading guilty:

Base Offense Level:	2L1.1(a)(3)	12
Acceptance of Responsibility:	3E1.1(a)&(b)	-2
Early Disposition/Government Savings:	5K3.1/5K2.0	<u>-2</u>
Total Adjusted Offense Level:		8

*Adjustment for Certain Zero-Point Offenders: The United States and the defendant agree that an additional two-level reduction will apply if the defendant qualifies for the U.S.S.G. § 4C1.1 adjustment for certain zero-point offenders.

2. Sentencing Range: Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the government and the defendant stipulate and agree that the following are the applicable guideline ranges for the offense, based on the defendant's criminal history category (CHC):

1 CHC I: a sentencing range of 0-6 months imprisonment.
2 CHC II: a sentencing range of 4-10 months imprisonment.
3 CHC III: a sentencing range of 6-12 months imprisonment.
4 CHC IV: a sentencing range of 10-16 months imprisonment.
5 CHC V: a sentencing range of 15-21 months imprisonment.
6 CHC VI: a sentencing range of 18-24 months' imprisonment.

7 3. The defendant may withdraw from the plea agreement if he/she receives a
8 sentence that exceeds the stipulated ranges listed above.

9 4. If the defendant moves for any adjustments in Chapters Two, Three or Four of
10 the Sentencing Guidelines or any "departures" from the Sentencing Guidelines, the
11 government may withdraw from this agreement. If the defendant argues for a variance
12 under 18 U.S.C. § 3553(a) in support of a sentence request below the stipulated range in
13 this agreement, the government may oppose the requested variance. The government,
14 however, will not withdraw from the agreement if the defendant argues for, and the Court
15 grants, a variance below the stipulated range in this agreement.

16 5. The parties agree that the defendant was an average participant in the offense for
17 the purpose of role analysis under U.S.S.G. §§ 3B1.1 and 3B1.2.

18 6. If the Court, after reviewing this plea agreement, concludes any provision is
19 inappropriate under Fed. R. Crim. P. 11(c)(5), it may reject the plea agreement, giving the
20 defendant, in accordance with Fed. R. Crim. P. 11(d)(2)(A), an opportunity to withdraw
21 the defendant's guilty plea.

22 7. The defendant recognizes that pleading guilty may have consequences with
23 respect to defendant's immigration status if the defendant is a recently naturalized United
24 States citizen or is not a citizen of the United States. Under federal law, a broad range of
25 crimes are removable offenses, including the offense(s) to which defendant is pleading
26 guilty. Although there may be exceptions, the defendant understands that the defendant's
27 guilty plea and conviction for this offense make it practically inevitable and a virtual
28 certainty that the defendant will be removed or deported from the United States. The
The defendant agrees that defendant has discussed this eventuality with defendant's attorney.
The defendant nevertheless affirms that defendant wants to plead guilty regardless of any

1 immigration consequences that this plea entails, even if the consequence is the defendant's
2 automatic removal from the United States.

3 Forfeiture

4 Nothing in this plea agreement shall be construed to protect the defendant from civil
5 forfeiture proceedings or prohibit the United States from proceeding with and/or initiating
6 an action for civil forfeiture. Further, this agreement does not preclude the United States
7 from instituting any civil proceedings as may be appropriate now or in the future.

8 Plea Addendum

9 This written plea agreement, and any written addenda filed as attachments to this
10 plea agreement, contained all the terms and conditions of the plea. Any additional
11 agreements, if any such agreements exist, shall be recorded in a separate document and
12 may be filed with the Court under seal. Accordingly, additional agreements, if any, may
13 not be in the public record.

14 Waiver of Defenses and Appeal Rights

15 Provided the defendant receives a sentence not to exceed 24 months' imprisonment,
16 the defendant waives any and all motions, defenses, probable cause determinations, and
17 objections that the defendant could assert to the information or indictment, or to the petition
18 to revoke, or to the Court's entry of judgment against the defendant and imposition of
19 sentence upon the defendant providing the sentence is consistent with this agreement. The
20 sentence is in accordance with this agreement if the sentence imposed is within the
21 stipulated range or below the stipulated range if the Court grants a variance. The defendant
22 further waives: (1) any right to appeal the Court's entry of judgment against defendant; (2)
23 any right to appeal the imposition of sentence upon defendant under 18 U.S.C. § 3742
24 (sentence appeals); (3) any right to appeal the district court's refusal to grant a requested
25 variance; (4) any right to collaterally attack defendant's conviction and sentence under 28
26 U.S.C. § 2255, or any other collateral attack; and (5) any right to file a motion for
27 modification of sentence, including under 18 U.S.C. § 3582(c) (except for the right to file
28 a compassionate release motion under 18 U.S.C. § 3582(c)(1)(A) and to appeal the denial

1 of such a motion). The defendant acknowledges that this waiver shall result in the dismissal
2 of any appeal or collateral attack the defendant might file challenging his/her conviction or
3 sentence in this case. If the defendant files a notice of appeal or a habeas petition,
4 notwithstanding this agreement, defendant agrees that this case shall, upon motion of the
5 government, be remanded to the district court to determine whether defendant is in breach
6 of this agreement and, if so, to permit the government to withdraw from the plea agreement.
7 This waiver shall not be construed to bar an otherwise-preserved claim of ineffective
8 assistance of counsel or of "prosecutorial misconduct" (as that term is defined by Section
9 II.B of Ariz. Ethics Op. 15-01 (2015)).

10 Reinstitution of Prosecution

11 Nothing in this agreement shall be construed to protect the defendant in any way
12 from prosecution for perjury, false declaration or false statement, or any other offense
13 committed by the defendant after the date of this agreement. In addition, if the defendant
14 commits any criminal offense between the date of this agreement and the date of
15 sentencing, the government will have the right to withdraw from this agreement. Any
16 information, statements, documents and evidence which the defendant provides to the
17 United States pursuant to this agreement may be used against the defendant in all such
18 proceedings.

19 If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any
20 court in a later proceeding, the government will be free to prosecute the defendant for all
21 charges as to which it has knowledge, and any charges that have been dismissed because
22 of this plea agreement will be automatically reinstated. In such event, the defendant waives
23 any objections, motions, or defenses based upon the Speedy Trial Act or the Sixth
24 Amendment to the Constitution as to the delay occasioned by the later proceedings.
25 Defendant agrees that the stipulated sentencing ranges set forth under "Agreements
26 Regarding Sentence" will not be offered if prosecution is re-instituted.

1 Disclosure of Information to U.S. Probation Office

2 The defendant understands the government's obligation to provide all information
3 in its file regarding defendant to the United States Probation Office. The defendant fully
4 understands and agrees to cooperate fully with the United States Probation Office in
5 providing all information requested by the probation officer.

6 Effect on Other Proceedings

7 I further understand that if I violate any of the conditions of my supervised release,
8 my supervised release may be revoked. Upon such revocation, notwithstanding any other
9 provision of this agreement, I may be required to serve a term of imprisonment or my
10 sentence may otherwise be altered.

11 WAIVER OF DEFENDANT'S RIGHTS

12 I have read each of the provisions of the entire plea agreement with the assistance
13 of counsel and understand its provisions. I have discussed the case and my constitutional
14 and other rights with my attorney. I understand that by entering my plea of guilty I will be
15 giving up my right to plead not guilty; to trial by jury; to confront, cross-examine, and
16 compel the attendance of witnesses; to present evidence in my defense; to remain silent
17 and refuse to be a witnesses against myself by asserting my privilege against self-
18 incrimination; all with the assistance of counsel, to be presumed innocent until proven
19 guilty beyond a reasonable doubt, and to appeal. This waiver shall not be construed to bar
20 an otherwise-preserved claim of ineffective assistance of counsel or of "prosecutorial
21 misconduct."

22 I agree to enter my guilty plea as indicated above on the terms and conditions set
23 forth in this agreement.

24 I have been advised by my attorney of the nature of the charge to which I am entering
25 my guilty plea. I have further been advised by my attorney of the nature and range of the
26 possible sentence.

27 My guilty plea is not the result of force, threats, assurance or promises other than
28 the promises contained in this agreement. I agree to the provisions of this agreement as a

1 voluntary act on my part, rather than at the direction of or because of the recommendation
2 of any other person, and I agree to be bound according to its provisions.

3 I agree that this written plea agreement contains all the terms and conditions of my
4 plea and that promises made by anyone (including my attorney) that are not contained
5 within this written plea agreement are without force and effect and are null and void.

6 I am satisfied that my defense attorney has represented me in a competent manner.

7 I am not now on or under the influence of any drug, medication, liquor, or other
8 intoxicant or depressant, which would impair my ability to fully understand the terms and
9 conditions of this plea agreement.

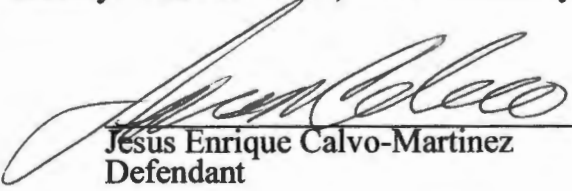
10 FACTUAL BASIS AND SENTENCING FACTOR

11 I agree that the following facts accurately describe my conduct in connection with
12 the offense to which I am pleading guilty and that if this matter were to proceed to trial the
13 government could prove these facts beyond a reasonable doubt:

14 On or about October 26, 2023, in the District of Arizona, I, Jesus Enrique
15 Calvo-Martinez, was driving a 2009 Dodge Charger near Bisbee. I was
16 transporting two illegal aliens in the vehicle, including Reyna Guadalupe
17 Tun-Chan and Blanca Yanelly Lopez-Chimas. I knew the individuals were
illegal aliens, and I intended to assist them in remaining in the United States
unlawfully. I was going to be paid for the transportation.

18 I have read this agreement or it has been read to me in Spanish, and I have carefully
19 reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it.

20
21 Date: 12/1/23


Jesus Enrique Calvo-Martinez
Defendant

22
23
24 DEFENSE ATTORNEY'S APPROVAL

25 I have discussed this case and the plea agreement with my client in detail and have
26 advised the defendant of all matters within the scope of Rule 11, Fed. R. Crim. P., the
27 constitutional and other rights of an accused, the factual basis for and the nature of the
28 offense to which the guilty plea will be entered, possible defenses, and the consequences

1 of the guilty plea, including the defendant's waiver of the right to appeal. No assurances,
2 promises, or representations have been given to me or to the defendant by the government
3 or by any of its representatives which are not contained in this written agreement. I concur
4 in the entry of the plea as indicated above and on the terms and conditions set forth in this
5 agreement as in the best interests of my client. I agree to make a bona fide effort to ensure
6 the guilty plea is entered in accordance with all the requirements of Rule 11, Fed. R. Crim.
7 P.

8 I translated or caused to be translated this agreement from English into Spanish to
9 the defendant on the 1 day of DECEMBER, 2023.

10
11 Date: 12/1/2023

12 
13 Richard B. Bacal, Esq.
14 Attorney for Defendant

15 GOVERNMENT'S APPROVAL

16 I have reviewed this matter and the plea agreement. I agree on behalf of the United
17 States that the terms and conditions set forth are appropriate and are in the best interests of
18 justice.

19 GARY M. RESTAINO
20 United States Attorney
21 District of Arizona

22 Digitally signed by
CHRISTINE MELTON
Date: 2023.11.22
12:14:34 -07'00'

23 Date: _____

24 CHRISTINE A. MELTON
25 Assistant U.S. Attorney
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